



**Auditor of Public Accounts  
Adam H. Edelen**

**FOR IMMEDIATE RELEASE**

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**Edelen Releases Audit of the Former Owsley Clerk's Fee Account,  
Finds Cumulative Deficit of \$307,768**

**FRANKFORT, Ky.** – State Auditor Adam Edelen today released the audits of the final financial statements of former Owsley County Clerk Sid Gabbard. This combines the 2012 financial statement and the 2013 statement, for the period of Jan. 1, 2012 through June 14, 2013. State law requires the auditor to conduct annual audits of county clerks and sheriffs.

The audit found that the Owsley County Clerk did not maintain adequate accounting records of fee account revenues and expenditures. The County Clerk's financial records do not permit the application of other auditing procedures to verify fee account revenues and expenditures. Significant discrepancies in the records and a lack of adequate internal controls resulted in a high level of audit risk. Therefore, the auditor does not express an opinion on the financial statement.

In April 2013, the former clerk accepted a guilty plea on charges of tax evasion and abuse of public trust. As part of the plea, he resigned and agreed to pay \$61,118 in restitution.

"I am relieved Mr. Gabbard is no longer in a position to pilfer from taxpayers, but it is disheartening to know that his outstanding deficit dwarfs his restitution payment," Auditor Edelen said. "The 2012 and 2013 audits will be referred to law enforcement and it is my hope that more taxpayer money can be reclaimed."

The 2012 and 2013 audits will be referred to the Owsley County Attorney, IRS, Kentucky Attorney General, Kentucky Department of Revenue and County Employees Retirement System.

As part of the audit process, the auditor must comment on non-compliance with laws, regulations, contracts and grants. The auditor must also comment on material weaknesses involving the internal control over financial operations and reporting.

The audit contains the following comments, which have been compiled from the 2012 and 2013 audits:

**The former County clerk has a cumulative deficit of \$307,768 at the conclusion of his tenure.** Due to issues noted in the current and previous year audits resulting from undeposited and/or unaccounted for receipts, disallowed expenditures and expenditures in excess of revenues, the County Clerk has a cumulative deficit of \$307,768 at the conclusion of his tenure as Owsley County Clerk. The cumulative deficit schedule is as follows:

Assets

Cash in Bank	\$	116,986	
Deposits in Transit		90,113	
2013 Receivables:			
Due from the Former County Clerk For Overpayment of Salary		3,204	
Due from Fiscal Court For Overpayment of Excess Fees		892	
Total Assets			\$ 211,195

Liabilities

## Paid Obligations:

Outstanding Checks	\$ 63,586	
Paid Liabilities	<u>151,050</u>	\$ 214,636

## 2009 Unpaid Obligations:

Internal Revenue Service - FICA	15,137
County Employees Retirement System - Retirement	2,236
Owsley County Deed Tax	2,429
Owsley County Extension District	380
Owsley County Attorney	102
Owsley County Soil Conservation	410
City of Booneville	<u>105</u>

Total Unpaid Obligations	<u>20,799</u>
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## 2010 Unpaid Obligations:

Internal Revenue Service - Withholdings and Match	4,711
State Treasurer- State Withholdings	766
County Attorney - Delinquent Tax	<u>2,942</u>

Total Unpaid Obligations	<u>8,419</u>
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## 2011 Unpaid Obligations:

Internal Revenue Service - Withholdings and Matching	25,007
State Treasurer-	
Kentucky Retirement System - Withholdings and Matching	23,094
Delinquent Tax	5,647
Owsley County-	
Delinquent Tax	7,982
Deed Transfer Tax	1,804
Excess Fees Due	1,161
Delinquent Taxes Due-	
Owsley County School	19,804
Owsley County Library	6,956
Owsley County Health	2,208
Owsley County Extension	5,598
Owsley County Soil Conservation	2,558
Owsley County Attorney	8,784
Owsley County Sheriff	7,121

Liabilities (Continued)

2011 Unpaid Obligations: (Continued)

Other Liabilities-

Due Clerk for Net Wage Difference	\$ 1,896
Due County Clerk for Expense Allowance Payable	3,004
Due Deputy Clerk for Net Wages Difference	643
Due Deputy Clerk for Net Wages Difference	<u>644</u>

Total Unpaid Obligations	<u>\$ 123,911</u>
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2012 Unpaid Obligations:

Internal Revenue Service	22,463
State Treasurer-	
Kentucky Retirement Service - Withholdings and Matching	33,160
Delinquent Tax	4,009
Owsley County-	
Tangible Personal Property Tax	14,315
Deed Transfer Tax	3,566
Delinquent Tax	8,894
Tangible Personal Property Tax-	
Owsley County Library	1,249
Owsley County Health	1,155
Owsley County Extension	2,087
Delinquent Tax	
Owsley County Board of Education	14,649
Owsley County Library	7,580
Owsley County Health	2,378
Owsley County Extension	6,585
Owsley County Soil Conservation	2,723
City of Booneville	6
Owsley County Attorney	7,350
Owsley County Sheriff	5,343
Ky Deferred Compensation	40
Other-	
Due Clerk for Net Wage Difference	574
Due Deputy Clerk for Net Wages	843
Due Deputy Clerk for Net Wages	<u>1,407</u>

Total Unpaid Obligations	<u>140,376</u>
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Liabilities (Continued)

2013 Unpaid Obligations:

Internal Revenue Service	\$	1,859	
State Treasurer-			
State Revenue Cabinet - State Withholdings		800	
Ky Retirement System		215	
Deferred Compensation		60	
Owsley County Deed Transfer		736	
Tangible Tax-			
Owsley County Extension District		1,618	
Delinquent Tax-			
Owsley County Extension District		3,948	
Owsley County Soil Conservation District		1,349	
Deputies Salary - Net Wages		237	
Total 2013 Unpaid Obligations			\$ 10,822
Total Unpaid Obligations			304,327
Total Liabilities			518,963
Total Fund Deficit as of June 14, 2013			\$ (307,768)

The former County Clerk should collect the receivable from the fiscal court for overpayment of excess fees of \$892. The former County Clerk deposited \$27,000 into the 2012 and 2013 fee bank accounts and reduced the amounts due from him personally, leaving an additional \$283,972 due from the former County Clerk's personal funds. All liabilities noted above should been paid after collections. Had proper records been maintained, these deficits would not have occurred.

On July 16, 2013, \$61,118 in restitution was deposited into the State Treasury as part of a plea agreement between the Former County Clerk and the Commonwealth of Kentucky from charges related to the fee account years of 2009, 2010, and 2011. The purpose of those funds is for restoring amounts owed to various Commonwealth agencies.

We recommend all liabilities be paid after the collection from the fiscal court and the former County Clerk and then all bank accounts pertaining to the former County Clerk's office be closed.

**The former County Clerk did not manage the financial activities of his office.** The former County Clerk did not account for the financial activities of his office by maintaining complete and accurate financial records. The 4<sup>th</sup> Quarterly Reports given to auditors were not supported by the receipts and disbursements ledgers and do not agree to bank activity for the period. Due to numerous errors noted in the following comments and recommendations, auditors cannot verify the accuracy of the financial statements. Inaccurate and incomplete financial reports can lead to improper financial decision making as well as increase the risk that errors and/or fraud will occur and go undetected.

Auditors have not been able to express an opinion on the former County Clerk's financial statements for the past 12 years, including the current engagements.

**The former County Clerk did not comply with the Uniform System of Accounts.** Multiple year audit-findings represent failure to comply with the Uniform System of Accounts as adopted under KRS 68.210. Among other provisions, this statute requires the official to maintain accurate recording of receipts by source and expenditures by payee, and to fulfill all other legal requirements relating to the oversight and management of public funds by his office.

Failure to complete these tasks results in inadequate oversight and accountability over financial activity as well as increases the risk that errors and/or fraud will occur and go undetected

**The former County Clerk's office lacks adequate segregation of duties.** The former County Clerk's office lacked adequate segregation of duties which further contributes to the inability to rely on his financial information. The former County Clerk maintains the disbursement ledger, makes the bank deposits, and mails checks for payment. Good internal controls dictate the same employee should not receive payments, make deposits, and prepare checks for payment.

**The former County Clerk has a known deficit of \$139,449 in his 2012 fee account and \$10,215 in his 2013 fee account.** The amounts reported as known deficits are the result of undeposited and/or unrecorded receipts, disallowed expenditures, and expenditures made in excess of revenues as outlined in the schedule below. The former County Clerk deposited \$16,000 of personal funds into the 2012 account on September 6, 2013 and \$11,000 of his personal funds into the 2013 account, reducing the deficit amount.

Comparisons of the former County Clerk's records, information obtained from outside sources, and bank records revealed \$125,910 in undeposited and/or unrecorded receipts in 2012 and \$9,995 in 2013. These comparison also showed significant delays in deposits and unusual cash deposit patterns.

Due to numerous problems with the former County Clerk's financial accounting and reporting system and his internal control structure, we cannot eliminate the possibility that the deficits are greater than the known amounts.

We recommend the former County Clerk deposit an additional \$123,449 of personal funds to cover the known deficit in his 2012 fee account, \$2,419 of personal funds to cover the known deficit in his 2013 fee account and then pay all liabilities still outstanding.

**The former County Clerk had \$1,082 in disallowed expenditures in 2012 and \$220 in disallowed expenditures in 2013.** The former County Clerk had \$1,082 in disallowed expenditures in 2012, which includes \$941 in bank overdraft fees, \$9 in late fees, and \$132 in undocumented reimbursements. His 2013 disallowed expenditures were for bank overdraft charges. Items such as bank overdraft fees, late payment fees, and undocumented reimbursements are not necessary expenses of the office and are reflective of poor management practices. In Funk vs. Milliken, 317 S.W.2d 499 (KY 1958), Kentucky's highest court

reaffirmed the rule that county fee officials' expenditures of public funds will be allowable only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not personal in nature.

**The former County Clerk deposited \$8,500 of unidentified cash after year end.** The former County Clerk deposited cash totaling \$8,500 after the close of calendar year 2012. The former County Clerk did not provide any financial documentation or records supporting the source of the funds, however, we have given the former County Clerk credit for these funds in determining his account deficit. If these funds had not been applied to the 2012 Fee Account, the known deficit would be significantly higher. Because the former County Clerk continues the practice of producing insufficient financial records over receipts, we cannot eliminate the possibility that these cash deposits were from 2013 cash collections as these deposits could not be directly attributed to any 2012 collections or other fees of the former County Clerk's office. Furthermore, we question the validity of any and all deposits occurring after the former County Clerk has completed his settlement as no additional funds should be deposited into the fee account after settlement is made.

**The former County clerk has not closed out his 2013 fee account.** In order to close out the 2013 fee account, the former County Clerk needs to collect the following:

Due Personally From Clerk:	
Unrecorded and/or Undeposited Receipts	\$ 9,995
Disallowed Expenditures	220
2013 Salary Overpayment	3,204
Due from 2012 Fee Account for Deposit Error	2,042
Due From Fiscal Court for Excess Fees Overpayment	892
Total To Be Collected	<u>\$ 16,353</u>

The former County Clerk deposited \$11,000 of personal funds on September 10, 2013 reducing uncollected receivables to \$5,353. The former County Clerk has an account balance of \$5,966. Once the amounts above are collected, the former County Clerk will have a total of \$5,353 available to pay the following liabilities:

Unpaid Obligations:		
Internal Revenue Service	\$	1,859
State Treasurer-		
State Revenue Cabinet - State Withholdings		800
Ky Retirement System		215
Deferred Compensation		60
Owsley County Deed Transfer		736
Tangible Tax-		
Owsley County Extension District		1,618
Delinquent Tax-		
Owsley County Extension District		3,948
Owsley County Soil Conservation District		1,349
Deputies Salary - Net Wages		237
Due 2012 Fee for Surplus In Usage Account		497
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Total Unpaid Obligations	\$	11,319
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Failure to pay liabilities timely causes taxing districts and other governmental agencies to be deprived of funds for significant time periods and can be detrimental to taxpayers.

**The former County Clerk has not closed out his 2012 fee account.** In order to close out the 2012 fee account, the former County Clerk needs to collect the following:

Due Personally From Clerk:		
Unrecorded and/or Undeposited Receipts	\$	125,910
Disallowed Expenditures		1,082
Expenditures In Excess Of Revenues		12,457
Due from 2011 Fee Account		2,317
Due From 2010 Fee Account		2,679
Due From Usage Account		497
Total To Be Collected		<hr/>
	\$	144,942
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The former County Clerk deposited \$16,000 of personal funds on September 10, 2013 reducing uncollected receivables to \$128,942. The former County Clerk has an account balance of \$13,476. Once the amounts above are collected, the former County Clerk will have a total of \$142,418 available to pay the following liabilities:



Unpaid Obligations:	
Internal Revenue Service	\$ 22,463
State Treasurer-	
Kentucky Retirement Service - Withholdings and Matching	33,160
Delinquent Tax	4,009
Owsley County-	
Tangible Personal Property Tax	14,315
Deed Transfer Tax	3,566
Delinquent Tax	8,894
Tangible Personal Property Tax-	
Owsley County Library	1,249
Owsley County Health	1,155
Owsley County Extension	2,087
Delinquent Tax	
Owsley County Board of Education	14,649
Owsley County Library	7,580
Owsley County Health	2,378
Owsley County Extension	6,585
Owsley County Soil Conservation	2,723
City of Booneville	6
Owsley County Attorney	7,350
Owsley County Sheriff	5,343
Ky Deferred Compensation	40
Due 2013 for Deposit Error	2,042
Other-	
Due Clerk for Net Wage Difference	574
Due Deputy Clerk for Net Wages	843
Due Deputy Clerk for Net Wages	1,407
Total Unpaid Obligations	<u>\$ 142,418</u>

**The former County Clerk has not closed out his 2011 fee account.** In order to close out the 2011 fee account, the former County Clerk needs to collect the following:

Due Personally From Clerk:	
Unrecorded and/or Undeposited Receipts	\$ 132,146
Disallowed Expenditures	<u>159</u>
Total to be Collected	132,305

The former County Clerk has an account balance of \$20. Once the amounts above are collected, the former County Clerk will have a total of \$132,325 available to pay the following liabilities:

Unpaid Obligations:	
Internal Revenue Service - Withholdings and Matching	\$ 25,007
State Treasurer-	
Kentucky Retirement System - Withholdings and Matching	23,094
Delinquent Tax	5,647
Owsley County-	
Delinquent Tax	7,982
Deed Transfer Tax	1,804
Excess Fees Due	1,161
Delinquent Taxes Due-	
Owsley County School	19,804
Owsley County Library	6,956
Owsley County Health	2,208
Owsley County Extension	5,598
Owsley County Soil Conservation	2,558
Owsley County Attorney	8,784
Owsley County Sheriff	7,121
Other Liabilities-	
Due 2010 Fee Account for Usage Paid and overpayments	5,609
Due 2012 Fee Account for deposit errors	2,316
Due Usage Tax Account	489
Due Clerk for Net Wage Difference	1,896
Due County Clerk for Expense Allowance Payable	3,004
Due Deputy Clerk for Net Wages Difference	643
Due Deputy Clerk for Net Wages Difference	644
Total Unpaid Obligations	<u>\$ 132,325</u>

**The former County Clerk did not remit payroll withholding and matching funds to proper agencies.** The former County Clerk withheld payments from employee payroll checks for FICA, Retirement, Federal, and State withholdings as required. However, the former County Clerk did not remit these employee withholdings to the appropriate agencies. In addition, the former County Clerk did not provide the required employer matching funds for FICA and retirement withholdings. As of June 14, 2013, the former County Clerk owes the Internal Revenue Service \$1,859 for FICA withholdings, matching funds, and federal withholdings. The former County Clerk owes the County Employees Retirement System \$215 for retirement withholdings and matching funds.

**The former County Clerk did not account for delinquent taxes completely and accurately.** The former County Clerk did not properly report the amount of delinquent tax payments received for calendar year 2012. Auditors confirmed delinquent tax revenues from outside sources and discovered \$37,037 in delinquent tax payments that were received by the former County Clerk but were not reported and paid to the appropriate taxing districts. In addition, \$19,602 of delinquent tax bills were missing from the former County Clerk's office indicating payments for these bills were collected, but not recorded, or these bills were not properly secured within the former Clerk's office. Due to inadequate recordkeeping, we cannot eliminate the possibility that there could have been payments received for prior year delinquent tax bills that have not been accounted for.

By not reporting all collections, taxing districts, the County Attorney, and the County Sheriff were not paid their share of delinquent taxes. Additionally, understated delinquent taxes contribute to incomplete and inaccurate financial reporting and to the known deficit in the former

County Clerk's 2012 fee account. The following known payments are due the taxing districts for delinquent taxes:

Delinquent Tax		
Kentucky State Treasurer	\$	4,009
Owsley County		8,894
Owsley County Board of Education		14,649
Owsley County Library		7,580
Owsley County Health		2,378
Owsley County Extension		6,585
Owsley County Soil Conservation		2,723
City of Booneville		6
Owsley County Attorney		7,350
Owsley County Sheriff		5,343
	\$	<u>59,517</u>

Furthermore, the former County Clerk did not collect the proper amount from taxpayers due to inaccurate and incomplete delinquent tax calculations. The former County Clerk did not always charge the appropriate amount for penalty, interest, county attorney fees and clerk commission. By not calculating the correct amount for delinquent taxes, the taxpayers were not paying appropriately and the districts are not receiving accurate payments.

**The former County Clerk did not remit deed transfer tax to the county.** The former County Clerk collected deed transfer tax in accordance with KRS 142.050, however, he did not remit the total due to the county. The county is owed \$3,566 for deed transfer tax for calendar year 2012 and \$736 for calendar year 2013. KRS 142.050(4) states, "[t]he County Clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The Former County Clerk shall retain five percent (5%) as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund." Failure to make these payments keeps the county from utilizing the funds.

**The former County Clerk has not closed out his 2010 fee account.** The bank closed the 2010 fee account on July 26, 2013. At that time the bank account had a balance of (\$2,679). Funds of \$2,679 were subsequently deducted from the 2012 fee bank account increasing liabilities of the 2010 fee account. In order to close out the 2010 fee account, the former County Clerk needs to collect the following:

Due Personally from Clerk for Deficit:	
Undeposited Receipts	\$ 18,675
Due From 2011 Account	<u>5,609</u>
Total To Be Collected	<u>\$ 24,284</u>

Once the amounts above are collected, the former County Clerk will have a total of \$24,284 available to pay the following liabilities:

Unpaid Obligations:

Internal Revenue Service - Withholdings and Match	\$ 4,711
State Treasurer-	
Withholdings	766
County Attorney - Delinquent Tax	2,942
Due to 2009 Fee Account for Prior Period Unpaid Obligations	13,186
Due to 2012 Fee Account for Account Chage Off Made By Bank	<u>2,679</u>

Total Unpaid Obligations	<u>\$ 24,284</u>
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**The former County Clerk did not settle prior period liabilities.** During our audit of the 2010 Fee account we became aware of additional liabilities that were owed from the 2009 Fee account that were not identified in the 2009 audit. As was found in the 2010 audit, the former County Clerk did not remit all payroll withholdings and matching funds for FICA and retirement for 2009. The former County Clerk owes \$15,137 for FICA and \$2,236 for retirement. Also, deed transfer tax totaling \$2,429 due the county for 2009 was not remitted.

Once these additional liabilities are accounted for, the 2009 Fee Account is in a deficit. Furthermore, the former Clerk did not close out 2006, 2007, 2008, and 2009 Fee Accounts by collecting and paying the amounts due as determined in prior year audits. We have netted the amounts due in each of these prior years into a single schedule. The 2010 Fee Account owes the 2009 Fee Account \$13,186 as noted in Comment 2010-11, which can be used to partially fund the additional liabilities identified. The former County Clerk is personally responsible for the remainder necessary for all prior period liabilities to be satisfied.

**Amounts Due From:**

2010 Fee Account (See Comment 2010-11)	\$ 13,186
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**Amounts Due To:**

Extension	\$ 380	
County Attorney	102	
City of Booneville	105	
Soil Conservation	410	
Internal Revenue Service - FICA	15,137	
County Employees Retirement System - Retirement	2,236	
County - Deed Transfer Tax	<u>2,429</u>	<u>20,799</u>

Amount Personally Due From Clerk	<u>\$ (7,613)</u>
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**The former County Clerk did not issue receipts in accordance with KRS 64.840.** The former County Clerk did not prepare receipts for all funds collected. Auditors reviewed one month of collections and noted the total listing of receipts does not agree to the daily checkout sheet. In addition, receipts were not issued in triplicate as required. According to KRS 64.840(1), the County Clerk "shall, upon the receipt of any fine, forfeiture, tax, or fee, prepare a receipt that meets the specifications of the state local finance officer..." The preparation of receipts for all

funds received begins the revenue process and will ensure all receipts are included on the daily checkout sheet and receipts ledger.

**The former County Clerk did not record payments from the Commonwealth of Kentucky and the Fiscal Court in accordance with KRS 43.075.** The former County Clerk did not record all payments received from the Commonwealth of Kentucky and the Owsley County Fiscal Court in accordance with KRS 43.075. Auditors performed test procedures on these payments and noted these payments were not recorded on the daily checkout sheets or in the receipts ledger; however, we did note that these payments were deposited into the bank account. The only recording of these payments was made on the Quarterly Report, and those amounts did not agree to third party confirmations of state and county payments.

**The former County Clerk did not maintain leave balance documentation.** During our audit, we noted that leave balances were not maintained. Records should be kept that document the amount of leave earned each month, the amount used and all leave balances available for use. Had these balances been maintained, employees would be aware of the amount of sick and vacation leave available to them on any given day. Furthermore, this would document any payment of leave balances when jobs are vacated.

**Form 1099 was not prepared for all applicable contract labor.** As a trustee/agent, the former County Clerk is responsible for reporting contract labor payments to the appropriate agencies in a timely manner. The former County Clerk paid a total of \$2,000 to an individual for contract labor that should be reported as taxable income by the individual. The Internal Revenue Service requires Form 1099 be issued to individual contractors for services resulting in income of \$600 or more.

**The former County Clerk did not remit ad valorem taxes to taxing districts timely.** During the test of ad valorem taxes, we noted that checks to some taxing districts did not clear the bank in a timely manner. State and School taxing districts' checks cleared the bank promptly, but disbursements to the county and other districts did not clear the bank until months after the taxes were collected. Several checks for October, November, and December ad valorem collections did not clear the bank until March 2012 and additional funds are due districts as follows:

Tangible Personal Property Tax-	
Owsley County	\$ 14,315
Owsley County Library	1,249
Owsley County Health	1,155
Owsley County Extension	2,087
	<u>\$ 18,806</u>

Checks not clearing the bank in a timely manner indicates the former County Clerk's failure to send the payments according to the guidelines of KRS 134.815. KRS 134.815(1) states, in part, "[t]he County Clerk shall, by the tenth of each month, report under oath and pay to the state, county, city, urban-county government, school, and special taxing districts all ad valorem taxes on motor vehicles collected by him for the preceding month, less the collection fee of the County Clerk, which shall be deducted before payment to the depository."

**The former County Clerk did not prepare and submit title applications timely.** The Transportation Cabinet notified the Auditor's Office that title applications for Owsley County were not being prepared and submitted in a timely manner. The former County Clerk was significantly behind in submitting title applications to the state. KRS 186A.165 states, in part, "[n]ot later than 3 p.m. on the next business day after an application for a first certificate of registration or title for a vehicle is received by him, the County Clerk shall prepare...an application transmittal record."

**The former County Clerk cashed \$2,987 of checks received from taxpayers for fee collections in 2012 and \$719 in 2013.** During audit procedures for delinquent taxes, we reviewed all manual receipts prepared by the former County Clerk's office and reviewed the deposit detail provided by the bank to determine when they were deposited. We noted 4 manual receipts issued to customers in 2012 that did not trace to a deposit made into the former County Clerk's fee account. Inquiry of the bank determined these checks were cashed by the former County Clerk. In total, we documented \$2,987 of fee collections for calendar year 2012 were cashed at the bank. In order to be in compliance with the uniform system of accounts, receipts should be issued for all fee collections, batched daily, recorded on a daily checkout sheet, deposited intact, and properly posted to the receipt ledger. Circumventing this process contributes to inaccurate and incomplete financial reporting and creates an opportunity for funds to be misappropriated.

Further testing revealed fee collection checks of \$719 were cashed for calendar year 2013. These instances support the audit finding that delinquent tax collections are not accounted for completely and accurately. In addition to cashing fee collection checks, we also identified instances in which the Clerk's office cashed checks unrelated to the operations of the former Clerk's office.

**The former County Clerk should have paid all excess fees to the county in 2013.** The former County Clerk transferred \$25,122 in June and July of 2013 to the new County Clerk to run her office. Since these funds were collected during the former County Clerk's tenure in office he should have paid any excess fees to the county.

KRS 64.830 states that an outgoing county official make a complete settlement of his accounts as county official to the fiscal court by March 15 immediately following the expiration of his term for all moneys received by him. The former County Clerk should have prepared his annual settlement for his 2013 fee account and paid the fiscal court over excess fees in order to properly close his account. Any use of county funds are made at the discretion of the fiscal court. By transferring funds to the newly appointed clerk, the former clerk circumvented proper procedures and overrode the fiscal court authority.

We recommend that final settlement be made and all excess fees be paid to the county and the county determine the use of county funds.

**The former County Clerk was overpaid his maximum salary for calendar year 2013.** The former County Clerk was overpaid by \$3,204 for calendar year 2013. KRS 64.5275 allows the Department for Local Government to determine a salary schedule for Clerks. According to this

schedule, the former Clerk's compensation for calendar year 2013 should have been \$69,356. The former County Clerk resigned from office on June 14, 2013 and would only be entitled to the portion of the salary attributable for the period ended June 14, 2013 totaling \$31,595. In addition, he would have been entitled to 6 months of his expense allowance totaling \$1,800. His total salary allowable for his 2013 term would have been \$33,395.

Since payroll was not calculated properly and the former County Clerk received payments in excess of the amount posted to his payroll ledgers, we had to recalculate payroll based on the allowable amount to determine net wages and found the amount overpaid was \$3,204.

Had he included all payroll checks on his payroll summary and withheld the appropriate amount from wages paid, he would have paid the appropriate amount of salary for his term of office.

We recommend that the requirements of KRS 64.535 be met, which states the Clerk shall "receive a monthly salary of one twelfth (1/12) of the amount indicated in the salary schedule." We recommend the former County Clerk repay the overpayment of salary due for 2013 to the fee account.

The county clerk's responsibilities include collecting certain taxes, issuing licenses, maintaining county records and providing other services. The clerk's office is funded through statutory fees collected in conjunction with these duties.

The 2012 audit report can be found [here](#) and the 2013 audit report can be found [here](#).

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